



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,321	12/03/2003	Oliver Keren Ban	AUS920030787US1	6222
82531	7590	08/31/2010		
Lieberman & Brandsdorfer, LLC 802 Still Creek Lane Gaithersburg, MD 20878			EXAMINER SIKRI, ANISH	
			ART UNIT 2443	PAPER NUMBER
			MAIL DATE 08/31/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-15 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The applicant has stated “stripping a payload from a broadcasting router, wherein said broadcasting packets have identical payloads and different headers”, and “a manager to strip a payload from broadcasting packet”. There is no support for identical payloads and different headers and a manager which strips the payload from the packet in the specification.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Rejections under 35 U.S.C. 112, 2nd Paragraph, No Disclosure or Insufficient Disclosure of the Structure, Material, or Acts for Performing the Function Recited in a Claim Limitation Invoking 35 U.S.C. 112, Sixth Paragraph

Claims 11-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The disclosure for “means for” limitations is inadequate in the specification.

For a computer-implemented means-plus-function claim limitation that invokes 35 U.S.C. 112, sixth paragraph, the corresponding structure is required to be more than simply a general purpose computer or microprocessor. The corresponding structure for a computer-implemented function must include the algorithm as well as the general purpose computer or microprocessor. The written description of the specification must at least disclose the algorithm that transforms the general purpose microprocessor to a special purpose computer programmed to perform the disclosed algorithm that performs the claimed function. Applicant may express the algorithm in any understandable terms including as a mathematical formula, in prose, in a flow chart, or in any other manner that provides sufficient structure. See MPEP 2181 for examples where the courts held that the corresponding structure is adequate for the computer-implemented means-plus-function claim limitations. A rejection under 35 U.S.C. 112, second paragraph, is appropriate if the written description of the specification discloses no corresponding algorithm. For example, merely referencing to a general purpose computer with appropriate programming without providing any detailed explanation of the appropriate programming, or simply reciting software without providing some detail about the means

Art Unit: 2443

to accomplish the function, would not be an adequate disclosure of the corresponding structure to satisfy the requirements of 35 U.S.C. 112, second paragraph, even when one of ordinary skill in the art is capable of writing the software to convert a general purpose computer to a special purpose computer to perform the claimed function.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim(s) 11-15 are rejected under 35 USC 101 since the claims are directed to non-statutory subject matter. Claim(s) 11-15 recite an article comprising a computer-readable storage medium which appear to cover both transitory and non-transitory embodiments. The United States Patent and Trademark Office (USPTO) is required to give claims their broadest reasonable interpretation consistent with the specification during proceedings before the USPTO. *See In re Zletz*, 893 F.2d 319 (Fed. Cir. 1989) (during patent examination the pending claims must be interpreted as broadly as their terms reasonably allow). The broadest reasonable interpretation of a claim drawn to a computer readable medium (also called machine readable medium and other such

Art Unit: 2443

variations) typically covers forms of non-transitory tangible media **and** transitory propagating signals *per se* in view of the ordinary and customary meaning of computer readable media, particularly when the specification is silent. See MPEP 2111.01.

When the broadest reasonable interpretation of a claim covers a signal *per se*, the claim **must** be rejected under 35 U.S.C. § 101 as covering non-statutory subject matter. See *In re Nuijten*, 500 F.3d 1346, 1356-57 (Fed. Cir. 2007) (transitory embodiments are not directed to statutory subject matter) and *Interim Examination Instructions for Evaluating Subject Matter Eligibility Under 35 U.S.C. § 101*, Aug. 24, 2009; p. 2.

The Examiner suggests that the Applicant add the limitation “non-transitory” or “memory” or “hardware” etc to the computer-readable medium as recited in the claim(s) in order to properly render the claim(s) in statutory form in view of their broadest reasonable interpretation in light of the originally filed specification. The Examiner also suggests that the specification may be amended to include the term for example “non-transitory computer readable medium” to avoid a potential objection to the specification for a lack of antecedent basis of the claimed terminology.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject

Art Unit: 2443

matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

1. Claims **1-15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Newson et al (US Pat 6904059) hereafter known as Newson, view of Yoshida et al (US Pub 2002/0075894) hereafter known as Yoshida.

2. Consider independent **Claims 11, 1, and 6**, Newson discloses an article comprising a computer readable storage medium including computer readable instructions (Newson, Col 12 Lines 55-60, Newson discloses the use of non-transitory memory), means for stripping a payload from a broadcasting packet at a receiving router (Newson, Col 4 Lines 5-9, Col 5 Lines 5-10), wherein all broadcasting packets

Art Unit: 2443

have identical payloads and different headers (Newson, Col 4 Lines 55-58, Newson disclosed that the packets can be of any protocol including variable length and fixed length packets and protocol uses can incorporate broadcast/unicast/multicast types of packets); means for storing the payload local to the receiving router (Newson, Col 4 Lines 64-66, Newson discloses that the packets are assembled on the router side, and it is common in the art to see that payload and headers can be stored in the router's buffer memory, further support can be seen by using the jitter buffer for example in Newson, Col 5 Lines 25-28); and means for attaching the broadcasting payload stored local to the receiving router to each header arriving at the receiving router separately from the broadcasting payload (Newson, Col 5 Lines 1-11, Newson discloses on how new packets are created with the collected and extracted payload from prior packets).

3. Newson does not explicitly disclose means for transmitting headers for each of the broadcasting packets from a sending router to the receiving router.

4. Nonetheless, Yoshida discloses the means for transmitting headers for each of the broadcasting packets from a sending router to the receiving router (Yoshida, [0019], Yoshida can send empty packets containing an empty payload, by just having the header information only).

5. Both Newson-Yoshida provide features related to packet disassembly/assembly. Therefore one of ordinary skill in the art would have been motivated to combine the teachings since both are within the same environment.

Art Unit: 2443

6. Therefore, it would have been obvious of ordinary skill in the art at the time of the invention was made to incorporate the use of an network routing system involving transmission of headers, taught by Yoshida, in the system of Newson for the purpose of having the efficient network routing system.

7. Claim 1 includes a method with limitations that are substantially similar to the limitations of claim 11. Claim 6 includes a method claim involving distribution of documents in the network with network packets limitations of Claim 11.

8. Note: (The combination of Newson-Yoshida, allows the Examiner to interpret the applicant invention as follows: Newson discloses the ability to strip broadcast packets into headers and payloads and the combining the collected payload with new headers which are taught by Yoshida arriving at the router, the new headers will also get stripped but since they contain no payload, the new headers can be attached to the collected payload to make new packets which then get transmitted to the network).

9. Consider **Claim 12, 2, 7** Newson-Yoshida discloses the system of claim 11 further comprising reducing broadcasting packet to header information (Yoshida, [0019], Yoshida can send empty packets containing an empty payload, by just having the header information only). Claim 2 includes a method with limitations that are substantially similar to the limitations of claim 12. Claim 7 includes a method claim

Art Unit: 2443

involving distribution of documents in the network with network packets limitations that substantially similar to limitations of Claim 12.

10. Consider **Claim 13, 3, 8** Newson-Yoshida discloses the article of claim 12 further comprising means for relaying the broadcasting payload to a destination router according to its address to form the full broadcasting packet (Newson, Col 5 Lines 1-11, Newson discloses on how new packets are created with the collected and extracted payload from prior packet/header information). Claim 3 includes a method with limitations that are substantially similar to the limitations of claim 13. Claim 8 includes a method claim involving distribution of documents in the network with network packets and the limitations that substantially similar to limitations of Claim 13.

11. Consider **Claim 14, 4, 9**, Newson-Yoshida discloses the computer readable medium of claim 13 wherein said document distribution system is an electronic mail distribution system associated with electronic mail sources (Newson, Col 4 Lines 55-58, Newson discloses that email, or webpage documents can be transmitted by the system). Claim 4 includes a method with limitations that are substantially similar to the limitations of claim 14. Claim 9 includes a method claim involving distribution of documents in the network with network packets limitations that substantially similar to limitations of Claim 14.

Art Unit: 2443

12. Consider **Claim 15, 5, 10** Newson-Yoshida discloses the article of claim 13 wherein; said broadcasting payloads are digitized packets (Newson, Col 4 Lines 55-58, Newson disclosed that the packets can be of any protocol including variable length and fixed length packets and protocol uses can incorporate broadcast/unicast/multicast types of packets); and said network distribution system is a network server system (Newson, Col 4 Lines 55-58, Newson discloses that network distribution system which transmit email, webpage, audio etc data). Claim 5 includes a method with limitations that are substantially similar to the limitations of claim 15. Claim 10 includes a method claim involving distribution of documents in the network with network packets limitations that substantially similar to limitations of Claim 15.

Response to Arguments

Applicant's arguments with respect to claims filed on 6/15/10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 2443

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANISH SIKRI whose telephone number is 571-270-1783. The examiner can normally be reached on 8am - 5pm Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia Dollinger can be reached on 571-272-4170. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2443

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Anish Sikri
a.s.

8/26/10

/George C Neurauter, Jr./

Primary Examiner, Art Unit 2443